



File Code: 1570 (218)  
#14-01-00-0024

Date: MAY 21 2014

Mike Mihelich  
Forest Watch Coordinator  
Kootenai Environmental Alliance  
PO Box 1598  
Coeur d'Alene, ID 83816

Dear Mr. Mihelich:

This letter is in response to your objection, dated April 4, 2014, of the Beaver Creek Project located on the Idaho Panhandle National Forest. I have read your objection and reviewed the Final Environmental Impact Statement (FEIS), the draft Record of Decision (ROD), the content in the project file, as well as considered the comments submitted during the opportunities for public comment for this project. Based on this review, conducted in accordance with 36 CFR 218, I understand the disclosed environmental effects of this project.

The 36 CFR 218 regulations provide for a pre-decisional administrative review process in which the objector provides sufficient narrative description of the project, specific issues related to the project, and suggests remedies that would resolve the objection (36 CFR 218.8). The regulations also allow, in part, for the parties to meet in order to resolve the issues (36 CFR 218.11(a)).

As specified at 36 CFR 218.11(b), I must provide a written response that sets forth reasons for the response; however, this written response need not be point-by-point. The Responsible Official and I have reviewed the project in light of the issues presented in your objection letter. I have considered your issues and suggested remedies and included my reasons for response to these issues and suggested remedies, which are detailed below.

### **RESOLUTION MEETING**

A resolution meeting was held on May 12, 2014; however, it did not result in resolution of any of the issues. While we may not have reached resolution, I appreciate your willingness to discuss your concerns and meet with employees on the Idaho Panhandle National Forest.

### **OVERVIEW OF PROJECT**

The Coeur d'Alene River Ranger District of the Idaho Panhandle National Forests (IPNF) proposed the Beaver Creek Project to respond to the goals and objectives outlined in the IPNF Forest Plan, USDA Forest Service Strategic Plan for Fiscal years 2007-2012, Interior Columbia Basin Strategy, Coeur d'Alene Geographic Assessment, Shoshone County Wildland Urban Interface Fire Mitigation Plan, and the National Cohesive Wildland Fire Management Strategy. Existing conditions in the resource area deviate from the desired future conditions defined by the Forest Plan, particularly conditions regarding forest resiliency, hazardous fuel loading, and watershed health.



The 28,200-acre Beaver Creek Resource Area is located entirely within Shoshone County, Idaho, approximately 15 miles northwest of Wallace, Idaho (T50N R4E, sections 31-35, T49N R3E sections 1, 12, 13, and 24, T49N R4E sections 1-36, T49N R5E sections 7, 17-21, and 28-32, T48N R5E section 6, and T48N R4E sections 1-4, and 9-11, Boise Meridian). The Resource Area includes National Forest System lands in the drainages of White Creek, Carpenter Gulch, Rock Gulch, Missouri Gulch, Scott Gulch, Alder Creek, Kid Gulch, Deer Creek, Moore Gulch, Dudley Creek, Ferguson Creek, Carbon Creek, Prospect Gulch, Unknown Gulch, Pony Gulch, Cleveland Gulch, and Potosi Gulch, all of which drain into Beaver Creek, then into the Coeur d'Alene River, and eventually into Lake Coeur d'Alene. National Forest System lands in the area are managed by the Coeur d'Alene River Ranger District of the IPNF.

The actions proposed for the Beaver Creek project are needed because existing conditions in the resource area deviate from the desired future conditions as defined by the Forest Plan (PF Doc. CR-002). The differences exist in a variety of resource areas, but are most pronounced in the areas of forest resiliency, hazardous fuel loading, and watershed health.

The project interdisciplinary team developed the following three objectives for the Beaver Creek resource area based on a comparison of existing conditions with desired future conditions:

**Objective 1 – Develop resilient forest conditions** by improving the resiliency of the landscape to insects, disease, fire, and drought through maintaining existing long-lived early seral species and increasing their overall representation across the landscape

**Objective 2 –Reduce hazardous fuels** in the wildland-urban interface and within the resource area to improve public and firefighter safety, as well as make communities, infrastructure and natural resource values less vulnerable to impacts from wildfire

**Objective 3 – Improve water quality and aquatic habitats** by restoring water quality and watershed conditions to meet water quality standards and move aquatic habitats towards an enhanced condition

In May 2013, the Forest published the Draft Environmental Impact Statement (DEIS) analyzing the impacts of proposed vegetation management, fuel management, watershed improvement, and road management activities. The Forest received comment letters on the DEIS that pointed out specific errors or omissions; however, it was determined the comments did not warrant development of additional alternatives or require new analysis. As a result, the Forest did not make major changes to the DEIS. If changes resulting from comments to the DEIS were minor, Forest Service policy (Forest Service Handbook 1909.15, Chapter 20, part 25.2) provides for the preparation of a Final Environmental Impact Statement (FEIS) by attaching errata sheets to the DEIS.

In January 2014, the Forest published the FEIS for the Beaver Creek Project, which included: the errata sheets to be attached to the DEIS; copies of comments received on the DEIS; and the Forest Service response to comments received on the DEIS. Citations to the FEIS in the Draft Record of Decision (ROD) that was published in January 2014 refer to sections of the DEIS as corrected by the errata sheets.

The Draft ROD identifies Alternative 2, with modifications, as the Selected Alternative. In summary, Alternative 2 Modified proposes the following activities:

- 1) **Vegetation management:** The harvest units proposed in Alternative 2 are retained in the selected alternative; however, the aggregate retention harvesting that was proposed for some units in Alternative 3 will be employed. Road construction that is associated with harvesting will be implemented as proposed in Alternative 2 because the harvest units are the same in the selected alternative. Road reconditioning and road reconstruction will be the same as described and analyzed under Alternative 2 because all of the harvest units that are described in Alternative 2 are adopted in the selected alternative. Fuel management treatments in the selected alternative will be essentially the same as those described and analyzed in Alternative 2. The only difference between the selected alternative and Alternative 2, in terms of fuel management, is that there are approximately 70 fewer acres of prescribed underburning in the selected alternative due to the estimated acreage of the aggregate retention harvest units that would be excluded from prescribed fire activities.
- 2) **Road decommissioning:** There will be 7.4 more miles for decommissioning than proposed in Alternative 2. These 7.4 miles are among the road decommissioning that was proposed and analyzed in Alternative 3.
- 3) **Road Storage:** There will be approximately six fewer miles of road storage than proposed in Alternative 2. These six miles were proposed for storage under Alternative 2 but are proposed for decommissioning under the Selected Alternative. All of the six miles were proposed and analyzed as decommissioned roads under Alternative 3.
- 4) **Aquatic Organism Passage (AOP) Improvements:** There were eight AOP improvements proposed in Alternative 2 and twelve AOP improvements proposed in Alternative 3. The Selected Alternative will include the twelve AOP improvements proposed in Alternative 3, as funding becomes available.

## **RESPONSE TO ISSUES & SUGGESTED REMEDIES**

### ***ISSUES NOT REQUIRING FURTHER DISCUSSION OR INSTRUCTIONS***

Your objection raised the following issues and suggested remedies:

**Issue 1: The cumulative effects analysis is inadequate under NEPA. The USFS failed to adequately disclose and analyze the direct and indirect effects of important aspects of the proposed action as it relates to aquatics issues.**

**Suggested Remedy:** The Beaver Creek Supplemental FEIS should provide high quality data indicating the total number of acres in the project area that are in the rain-on-snow zone, the total number of new regeneration logging units that would be located in the rain-on-snow zone, the total number of new regeneration logging units that would be located

on slopes 45% and greater, and the total number of new regeneration logging units that would be placed adjacent to current clearcut logging units.

**Issue 2: The selected alternative does not demonstrate scientific integrity sufficient to meet NEPA requirements or conclude Forest Plan water standards are met.**

**Suggested Remedy:** The Supplemental FEIS should provide accurate scientific data with high quality data indicating the Selected Alternative would in fact be in full compliance with applicable Federal laws, including NEPA, NFMA, CWA, ARA, APA, as well as the IPNF Forest Plan and State of Idaho WQS.

**Response to Issues 1 and 2:** Based on my review of the Final Environmental Impact Statement (FEIS), the draft Record of Decision (ROD) and the content in the project file, I find these issues/contentions and suggested remedies do not require further discussion or instructions to the Responsible Official for one or more of the following reasons:

- 1) The proposed actions are in compliance with applicable regional guidelines, the Forest Plan and/or law, regulation and policy, as supported by adequate analysis and rationale made available in the FEIS and draft ROD and furthermore supported by information in the project file;
- 2) The appropriate models, methodology and/or science was applied;
- 3) The Forest already provided an adequate and thorough response to the issue in the Response to Comments section in the FEIS; and
- 4) The objector failed to raise the issue in comments previously submitted during a public comment period and the issue is not based on new information (36 CFR 218.8(c)).

#### ***ISSUES REQUIRING FURTHER DISCUSSION OR INSTRUCTIONS***

While the above issues do not require additional discussion or instructions, based on my review of the FEIS, the draft ROD and the content in the project file, I find the following issue does require further discussion to clarify the project is in compliance with law, regulation, policy and the Forest Plan; however, I do not find the need to provide instructions to the responsible official.

**Issue 3. The objector alleges violations of the Clean Water Act, Idaho Water Quality Standards, and the IPNF Forest Plan water quality standards. Specifically, he alleges violations to Forest Plan water standards 1, 2, and 6, that the release of additional sediment associated with the selected Alternative 2 does not comply with Idaho WQS IDAPA 58.01.02.050.02a, 2b. and IDAPA 58.01.02.054.04., in particular the TMDL requirements at IDAPA 58.01.02.054.04.**

**Suggested Remedy:** The Supplemental FEIS should provide accurate scientific data with high quality data indicating the Selected Alternative would in fact be in full compliance

with applicable Federal laws, including NEPA, NFMA, CWA, ARA, APA, as well as the IPNF Forest Plan and State of Idaho WQS.

A Beaver Creek Supplemental Final EIS should be prepared that fully addresses all sediment TMDL issues associated with sediment reduction requirement of 616 tons/year from NFS lands in the project area.

**Response to Issue 3:** Implementation of the Selected Alternative would meet Forest Plan Water Standards, specifically Water Standards #1, 2 and 6. Information contained within the Project Record includes documentation that the Beaver Creek Project was developed and would be implemented such that all Forest Plan Water Standards would be met.

The Beaver Creek drainage does have a sediment TMDL, as approved by the EPA. The TMDL is the guiding document as to whether the project is meeting state water quality requirements (Clean Water Act). As documented in the effects analysis in the FEIS, DEIS and Specialist Report (pp. 151 and 157), the implementation of Alternative 2 Modified will result in a net reduction of 137 tons of sediment to the streams in the watershed when compared to Alternative 1 (no action alternative), thereby meeting the intent of the TMDL (PF Doc. NEPA-02e [FEIS], p. 23). The project also shows compliance with the state water quality requirements for TMDL-listed streams by following all applicable Best Management Practices (BMPs) (DEIS, Appendix E, Sections E7 and F).

Furthermore, a letter received from the U.S. Environmental Protection Agency (Region 10) (PF Doc. COMM-024) reiterates their support for the project and reaches a summary rating of Lack of Objections based upon their responsibilities under the National Environmental Policy Act and Section 309 of the Clean Water Act. Specifically the letter states, *"We also note our agreement with the EIS that the action alternatives' road decommissioning, road reconstruction and other activities would meet the intent of the November 2001 North Fork Coeur d'Alene River Total Maximum Daily Load for the Beaver Creek subbasin."*

The objector argues that the discharge of the pollutant sediment violates Idaho WQS. As already stated, the Beaver Creek drainage is a TMDL-listed stream (PF Doc. AQ R10) because sediment is listed as a pollutant of concern (PF Doc. AQ R48). The Forest demonstrated in the analysis for the project how sediment reduction efforts taken in conjunction with this project will result in a reduction of sediment in the watershed.

Regarding compliance with the CWA, as documented in the Draft ROD, the FEIS, and the DEIS: *"Under authority of the Clean Water Act, the U.S. Environmental Protection Agency (EPA) and the states must develop plans and objectives that will not further harm, and eventually restore, streams that do not meet beneficial uses of the State. The Forest Service has developed Best Management Practices as outlined in the Soil and Water Conservation Handbook (Forest Service Manual 2509.22, PF Soil-R-72) to meet the intent of the water quality standards of the state of Idaho"* (PF Doc. NEPA-03d [Draft ROD], pp. 28 to 29).

The Tier 1 antidegradation policy within the water quality standards does not prohibit the introduction of sediment or other pollutants to a water body, but instead only prohibits the introduction of sediment that will lower the level of water quality necessary to maintain and

protect existing uses (PF Doc. AQ R48). The Beaver Creek project will improve the watershed by reducing the current sediment load of 244.1 tons to 106.9 tons, a reduction of 137 tons for the watershed (PF Doc. NEPA-02e [FEIS], p. 23).

**SUMMARY**

I have reviewed your assertions that the project violates various environmental laws, regulations, policies and the Forest Plan. My review finds the project is in compliance with these laws, regulations, policies and the Forest Plan.

My review constitutes the final administrative determination of the Department of Agriculture; no further review from any other Forest Service or USDA official of my written response to your objection is available [36 CFR 218.11(b)(2)].

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Schmid', with a stylized flourish at the end.

DAVID E. SCHMID  
Deputy Regional Forester

cc: Mary Farnsworth, Chad E Hudson, Ryan W Foote, Karl Dekome, Clinton L Scott, Ray G Smith